

MOTION INFORMATION STATEMENT

Docket Number(s): 15-1672

Caption [use short title]

Motion for: Leave to File Brief in Excess of the Type-Volume

United States et al.,

Plaintiffs-Appellees

v.

American Express Co. et al.,

Defendants-Appellants

Limitation of Fed. R. App. Proc. 32(a)(7)(B).

Set forth below precise, complete statement of relief sought:

Amex seeks leave to file a principal brief in excess of the

14,000 word limit provided by Fed. R. App. Proc. 32(a)(7)(B).

Amex seeks leave to file a principal brief containing an

additional 6,000 words, bringing the total limit to 20,000 words.

**MOVING PARTY:** American Express Co.

**OPPOSING PARTY:** United States

Plaintiff  Defendant  
 Appellant/Petitioner  Appellee/Respondent

**MOVING ATTORNEY:** Evan R. Chesler

**OPPOSING ATTORNEY:** Nickolai G. Levin

[name of attorney, with firm, address, phone number and e-mail]

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Court-Judge/Agency appealed from: Hon. Nicholas G. Garaufis, U.S. District Court for the Eastern District of New York

Please check appropriate boxes:

**FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND  
INJUNCTIONS PENDING APPEAL:**

Has movant notified opposing counsel (required by Local Rule 27.1):

Yes  No (explain): \_\_\_\_\_  Yes  No

Yes  No (explain): \_\_\_\_\_

Yes  No

Opposing counsel's position on motion:

Unopposed  Opposed  Don't Know

Has this relief been previously sought in this Court?  Yes  No

Does opposing counsel intend to file a response:

Yes  No  Don't Know

Requested return date and explanation of emergency: \_\_\_\_\_

Is oral argument on motion requested?

Yes  No (requests for oral argument will not necessarily be granted)

Has argument date of appeal been set?

Yes  No If yes, enter date: \_\_\_\_\_

**Signature of Moving Attorney:**

/s/ Evan R. Chesler

Date: June 19, 2015

Service by:  CM/ECF

Other [Attach proof of service]

# 15-1672-cv

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United States Court of Appeals  
*for the*  
Second Circuit

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UNITED STATES, *et al.*,

*Plaintiffs-Appellees*

v.

AMERICAN EXPRESS CO., *et al.*,

*Defendants-Appellants*

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK, NO. 10-cv-4496-NGG

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**APPELLANTS' UNOPPOSED MOTION FOR LEAVE TO FILE BRIEF  
IN EXCESS OF THE TYPE-VOLUME LIMITATION OF FRAP 32(a)(7)(B)**

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*Attorneys for Defendants-Appellants*

Defendants-Appellants American Express Company and American Express Travel Related Services Co., Inc. (collectively, "Amex") hereby move for an order permitting Amex to file a principal brief that exceeds the 14,000 word limitation of Federal Rule of Appellate Procedure 32(a)(7)(B)(i) by up to 6,000 additional words, resulting in a total word count of no more than 20,000 words.

Amex requests this enlargement of its brief because the record and prior proceedings in this appeal are voluminous and complex. The appeal concerns a 150-page decision issued by the district court after a seven-week bench trial involving 38 fact and expert witnesses and over 1,000 trial exhibits admitted into evidence. While the parties are intimately familiar with the record and the issues, the Court is not. Amex therefore makes this request for an enlargement of its principal brief in order to present this voluminous record clearly to the Court and to present the issues raised by this appeal in a manner that will assist the Court in its consideration of the important issues raised by this appeal.

This Court has also previously granted similar extensions of the word limit in antitrust cases. See, e.g., Motion Order, United States v. Visa, No. 02-6074(L) (2d Cir. May 9, 2002) (granting appellant Visa an additional 6,000 words for its principal brief, bringing the overall limit to no more than 20,000 words).

Amex has sought the consent of counsel for Plaintiffs-Appellees (collectively, the “Government”) to this motion and counsel for the Government have stated that they do not oppose the relief Amex seeks herein. Amex has agreed that it will not oppose a similar motion by the Government in connection with its responsive briefing.

## Conclusion

For the foregoing reasons, Amex respectfully requests that this Court grant it leave to file a principal brief not exceeding 20,000 words.

Dated: June 19, 2015

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